

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

CHARLES RICHARD WILLIS,

Plaintiff,

v.

CIV 15-1000 JCH/KBM

HERMAN GALLARDO, et al.,

Defendants.

**PROPOSED FINDINGS RECOMMENDING DISMISSAL OF
THE COMPLAINT WITHOUT PREJUDICE**

THIS MATTER is before the Court on the pro se Plaintiff's failure to respond to the Order to Show Cause entered December 14, 2016. *Doc. 22*. In that Order I noted that Plaintiff failed to meet and confer with opposing counsel to participate in the formulation of the Joint Status Report and Provisional Discovery Plan, despite Defendants' counsel's efforts to reach him. *Id.* I accordingly ordered Plaintiff to show cause why he failed to appear for the meet and confer session. I warned Plaintiff that if he failed to timely respond to the Order I would recommend to the presiding district judge that this case be dismissed without prejudice. *See, e.g., Nat'l Hockey League v. Metro. Hockey Club, Inc.*, 427 U.S. 639, 642-43(1976); *Link v. Wabash R.R. Co.*, 370 U.S. 626, 629-30 (1962); *see also Costello v. United States*, 365 U.S. 265, 286-87 (1961) (district court may dismiss *sua sponte* for failure to comply with order of court); *United States ex rel. Jimenez v. Health Net, Inc.*, 400 F.3d 853, 855 (10th Cir. 2005) ("dismissal is an appropriate disposition against a party who disregards court orders and fails to proceed as required by court rules.").

Plaintiff's response to the Order to Show Cause was due on January 3, 2017,¹ but no response has been filed as of today. There is no indication that Plaintiff failed to receive the Order. Thus, it appears that Plaintiff manifests a lack of interest in litigating this matter.

IT IS THEREFORE RECOMMENDED that this case be dismissed without prejudice.


UNITED STATES CHIEF MAGISTRATE JUDGE

THE PARTIES ARE FURTHER NOTIFIED THAT WITHIN 14 DAYS OF SERVICE of a copy of these Proposed Findings and Recommended Disposition, they may file written objections with the Clerk of the District Court pursuant to 28 U.S.C. § 636(b)(1).

A party must file any objections with the Clerk of the District Court within the fourteen-day period if that party wants to have appellate review of the proposed findings and recommended disposition. If no objections are filed, no appellate review will be allowed.

¹ Plaintiff's response was due on December 28, 2016; however, because the Court's Order to Show Cause was served via mailing, three additional days were added to this deadline, making the response due on December 31, 2016. Since December 31 fell on a weekend, and due to a substitute holiday, Plaintiff's response became due on the next working day, January 3, 2017.